

11. NOTE TO CDC STAFF: RECOMMENDATIONS AND REQUESTS

3. the panel's belief that the prisoner's current mental health is an important issue. In the new full evaluation, the panel requests that the clinician specifically address the following:

- a. the prisoner's violence potential in the free community;
- b. the significance of alcohol/drugs as it relates to the commitment offense and an estimate of the prisoner's ability to refrain from use/abuse of same when released;
- c. the prisoner's psycho-sexual problems;
- d. the extent to which the prisoner has explored the commitment offense and come to terms with the underlying causes;
- e. the need for further therapy programs while incarcerated.

f. other: Request a New PSS Report,

1/23-03

J. Kelly

4. the panel's belief that the prisoner has deteriorated psychologically and there appears to be a need for treatment. The panel bases this conclusion upon

- B. (Other requests to CDC staff):

BOARD OF PRISON TERMS

LIFE PRISONER HEARING - EXTRAORDINARY ACTION AND DECISION

STATE OF CALIFORNIA
BPT 100.1A (Rev. 10/89)

I certify to the best of my knowledge and information, the foregoing reasons as stated by the prisoner are accurate, and that the prisoner was capable of making a knowledgeable decision regarding his/her hearing.

The following information is submitted for the Board's consideration in making their decision:

COPR Signature

Date

FOR BOARD OF PRISON TERMS USE ONLY

DECISION / ORDER

WAIVER OF RIGHT TO ATTEND HEARING

1. Request is denied.
- Request is granted. Hearing will be conducted in absence of prisoner.

POSTPONEMENT

2. Request is denied.
- Request is granted. Grant based on a finding of good cause. Place on _____ calendar.

WAIVER OF HEARING AND STIPULATION TO UNSUITABILITY

3. Request is denied.
 - Request is granted. The Board agrees to enter into the stipulation, on a finding of good cause, offered by the prisoner on the waiver of his/her Life Parole Consideration Hearing and orders a:
 one-year denial two-year denial* three-year denial**
- * The Board must find it unreasonable to expect that the prisoner would be eligible for parole during the second, or second and third year, and the Board must state the reasons for its finding.
- ** In addition to the above (*), the prisoner must have been convicted of more than one offense which involves the taking of a life.

(The basis of the finding of good cause for postponement or multiple-year denial must be stated below.)

Good cause based on the reasons given by the prisoner.

Other comments (if applicable): *Attorney*

Signature of BPT Commissioners

1. *B. C. Clark*
2. *Pat Han*

Date

Date

BPT Action Taken At:

 BPT Headquarters Institution

NAME

ATTEBSON

CDC NUMBER

E-88649

INSTITUTION

CTF

CALENDAR

DATE

*103 1-22-03
172*

LIFE PRISONER: PAROLE CONSIDERATION
PROPOSED DECISION (BPT §2041)

PAROLE DENIED *2 yrs*

If this proposed decision denying parole is approved, the Board will send you a copy of the approved decision, including the reasons for denial of parole, within 30 days of the hearing.

I. PAROLE GRANTED

A. Base Period of Confinement Months

Case No.	Count No.	Offense
----------	-----------	---------

B. Firearm Enhancement + Months

C. Other Crimes Total + Months

Case No.	Count No.	Offense	mos.
----------	-----------	---------	------

Case No.	Count No.	Offense	mos.
----------	-----------	---------	------

Case No.	Count No.	Offense	mos.
----------	-----------	---------	------

D. Total Term Months

E. Postconviction Credit From _____ To _____ Months

F. Total Period of Confinement Months

The period of confinement indicated is a tentative decision proposed by this panel. The decision will be reviewed pursuant to BPT §2041, and, if approved, a copy of the approved decision will be sent to you within 30 days. At that time appropriate pre-prison credits will be applied and a parole release date computed.

You will not engage in any conduct specified in BPT §2451. Such conduct may result in rescission or postponement of your parole date.

If the proposed decision denying or granting parole is disapproved, you will receive a copy of the proposed decision and the reasons for disapproval. You will then receive a copy of the modified decision or will be scheduled for a new hearing, as appropriate.

PANEL HEARING CASE

Susan Fisher

Date

7/22/04

Rt 1/JL

Date

7/22/04

Date

7/22/04

Patricia, Joy

CDC NUMBER
E88649

INSTITUTION
CIT

HEARING DATE
7/22/04

PAROLE GRANTED - (YES)

CDC: Do not release prisoner before
Governor's review

Records Use Only

Parole Release Date

YR MO DAY

PAROLE DENIED - (NO) - 2 Years

Need addendum to psych to address

Whether the I/m has any continuing "obsession" with the victim.

AGREED UNSUITABLE (Attach 1001A Form) FOR: _____ YEAR(S). This issue was raised

HEARING POSTPONED/REASON: _____ at an earlier BPT hearing

Attach Prison Calculation Sheet

PANEL RECOMMENDATIONS AND REQUESTS

The Board Recommends:

No more 115's or 128A's

Stay discipline free

Work to reduce custody level

Learn a trade*

Earn positive chronos

Get self-help* Continue
Program

Get therapy*

Get a GED*

Recommend transfer to _____

Other _____

*These programs are recommended if they are offered at your prison and you are eligible/able to participate.

Penal Code 3042 Notices

Sent: Date: 5/26/04

Commitment Offense(s)

PC 187/064X

ATT. MURDER 1ST

Code(s)

C79650

Crime(s)

I

Case #(s)

Count #(s)

Date Inmate Came to CDC

3/14/91

Date Life Term Began

Minimum Eligible Parole Date
8/26/96

Initial Hearing

Subsequent (Hearing No.) 5

Date of Last Hearing

CDC Representative

Attorney for Prisoner

Address

D.A. Representative

County

This form and the Board's decision at the end of the hearing is only proposed and NOT FINAL. It will not become final until it is reviewed.

Hair

Susan Fisher

Date

7/

Panel Member

Ruth Lee

Date

7/22/

Panel Member

Date

10/

JANE PATTERSON, JODY

CDC # E88649

PRISON CTF

CALENDAR 7/04

DATE

EXHIBIT “H”

NAME and NUMBER PATTERSON, JODY E88649 CFGWT3000000349L

CDC 128-B (Rev. 4/74)

On 1-23-07 (DATE) I, Inmate PATERSON, CDC# E88649, received hearing transcripts from the Board of Parole Hearings hearing that took place 8/2/2006.

Jody Patterson 1-23-07
Inmate Signature

C. Ellsworth, CPT
Staff Member Signature

CTF

INMATE COPY

GENERAL CHRONO

Exhibit H

1761

**PROOF OF SERVICE BY MAIL
BY PERSON IN STATE CUSTODY
(C.C.P. §§ 1013(A), 2015,5)**

I, Jody Dion Patterson, declare:

I am over 18 years of age and I am party to this action. I am a resident of CORRECTIONAL TRAINING FACILITY prison, in the County of Monterrey, State of California. My prison address is:

Jody D. Patterson, CDCR #: E-88649
CORRECTIONAL TRAINING FACILITY
P.O. BOX 689, CELL #: G-349L
SOLEDAD, CA 93960-0689.

On FEBRUARY 13, 2007, I served the attached:

PETITION FOR WIT OF HABEAS CORPUS WITH MEMORANDUM
OF POINTS AND AUTHORITIES AND EXHIBITS MARKED A-H

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope (verified by prison staff), with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named institution in which I am presently confined. The envelope was addressed as follows:

- ① CALIFORNIA ATTORNEY GENERAL ② ORANGE COUNTY DISTRICT ATTORNEY
110 WEST A STREET, SUITE 1100 700 CIVIC CENTER DRIVE W. #A200
P.O. BOX 85266 SANTA ANA, CA. 92701
SAN DIEGO, CA. 92186-5266

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 2-13-07.

Jody D. Patterson
Jody D. Patterson
Declarant

G038678

Patterson v. Orange County Superior Court et al.

Superior Court of Orange County

Appellate Defender's, Inc.
District Attorney
Department of Corrections

Jody Dion Patterson
CDC:E-88649
G-252 L
✓ P.O. Box 689
Soledad, CA 93960-0689

Orange County Superior Court
Hon. Kazuharu Makino, Dept. 5
700 Civic Center Drive West
Santa Ana, CA 92702

Office Of The State Attorney General
P O Box 85266
San Diego, CA 92186-5266

Writs & Appeal
Office Of The District Attorney
401 Civic Center Drive West
Santa Ana, CA 92701

EXHIBIT “I”

MINUTE ORDER

Case Number M-11219 X A

People Vs Patterson, Jody Dion

Report Request Criteria

- 1. Docket Date Range : Date filter
- 2. Sequence Number Range : Sequence filter
- 3. Docket Category : Category filter

Docket Dt Seq Text

- 3/22/2007 1 Hearing held on 03/22/2007 at 09:00 AM in Department C5 for Chambers Work.
- 2 Officiating Judge: David Hoffer, Judge
- 3 Clerk: L. Torres
- 4 No Court Reporter present at proceedings.
- 5 No appearances.
- 6 Order denying Writ of Habeas Corpus filed.
- 7 Petition for Writ of Habeas Corpus is denied for the reasons stated in the order denying writ filed 02/20/2007.
- 8 As ordered, the clerk this date has mailed a copy of this minute order to the Petitioner at
 JODY DION PATTERSON
 CDC #E-88649
 CORRECTIONAL TRAINING FACILITY
 P.O. BOX 689
 SOLEDAD, CA 93960-0689.
- 9 The clerk this date has forwarded a copy of this minute order to Orange County District Attorney's Office.

2/8 179

Name: Patterson, Jody Dion

Page 1 of 1

MINUTE ORDER

Case: M-11219 X A

Report Date: 03/29/2007 18:02

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAR 22 2007

ALAN SLATER, Clerk of the Court

BY: *Joe Jones*, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

In re JODY DION PATTERSON,) Orange County Superior Court
Petitioner,) Case Number: M-11219
) (C-79650)
)
ON HABEAS CORPUS) ORDER DENYING
) HABEAS CORPUS
)

TO THE OFFICE OF THE ORANGE COUNTY DISTRICT ATTORNEY AND
PETITIONER:

HAVING REVIEWED THE ABOVE CAPTIONED PETITION FOR WRIT OF HABEAS
CORPUS, THE COURT MAKES THE FOLLOWING ORDER:

Petitioner is serving an indeterminate term of life in state prison with the
possibility of parole following his 1991 conviction for attempted first degree murder [Pen.
Code, § 664/§ 187] committed through the personal use of a firearm [Pen. Code, §
12022.5(a)] and resulting in the infliction of great bodily injury [Pen. Code, § 12022.7].

On August 2, 2006, the California Board of Parole Hearings found petitioner
unsuitable for parole following a subsequent parole consideration hearing. The Board
determined that:

- A. The commitment offense was carried out for a very trivial motive and in an
especially cruel, dispassionate, and calculated manner demonstrating an
exceptionally callous disregard for human suffering;
- B. Petitioner has a record of institutional misconduct; and

1 C. Opposition to parole was expressed by the Orange County District
2 Attorney's Office.
3

4 II.
5

6 Petitioner challenges the decision rendered by the Board of Parole Hearings
7 claiming:
8

- 9 1. The decision violated his liberty interest in parole and right to due process since it
10 is devoid of evidentiary support and is improperly based solely on the
11 commitment offense.
12 2. There is no reliable relationship between the identified unsuitability factors relied
13 upon by the Board and petitioner's current risk of danger if released on parole.
14 3. Petitioner should be paroled since he did not commit murder and has already
15 served the minimum term for his offense.

16 III.
17

18 The petition does not establish a prima facie case for relief on habeas corpus.
19 The record contains evidentiary support for each of the Board's three findings and
20 refutes petitioner's claim that the Board relied solely on the commitment offense to find
21 him unsuitable for parole. The circumstances of the commitment offense justify the
22 Board's characterization of the same as a cruel, calculated, and premeditated act
23 carried out with an exceptionally callous disregard for human suffering. (See, Pen.
24 Code, § 3041(b); Cal. Code of Regs., tit. 15, § 2402(b) and (c)(1)(B)(D)(E).)

25 Petitioner and the victim had a verbal argument concerning petitioner's job
26 performance one day in early February 1990. As a result, petitioner was transferred to
27 a new job assignment and eventually was laid off. On February 28, 1990, petitioner,
28

1 while lying in wait, intentionally shot at the victim with a high powered rifle as the
2 unarmed and unsuspecting victim came to a stop in his vehicle near an intersection.
3 The first bullet shattered the passenger side window. The second bullet struck the
4 victim in the arm and chest area. The victim required surgery to remove imbedded
5 bullet fragments. Petitioner was under the influence of controlled substances at the
6 time of the offense and had exhibited stalking-type behavior towards the victim in the
7 days immediately preceding the day of the offense.

8
9 The Board also relied on petitioner's record of institutional misconduct as
10 reflected in the record. Since 1992, petitioner has been cited three times for major
11 violations consisting of gambling (1992), refusal to work (2002), and refusal to obey
12 orders (2004). Petitioner has also been cited three times for minor violations consisting
13 of failing to report to work (1991, 2001) and talking during count (1996). While it is true
14 that none of the incidents at issue involved violence, petitioner's pattern of institutional
15 misconduct is rationally related to a causative factor of petitioner's offense and supports
16 the Board's lingering concern about petitioner's ability to abide by the law and societal
17 norms if released on parole. (See, Cal. Code of Regs., tit. 15, § 2402(b).)

18
19 No abuse of discretion is evident in the Board's decision to cite the Orange
20 County District Attorney's opposition to petitioner's release on parole as a basis for its
21 determination. The Board is statutorily required to consider the views of the People's
22 representative when evaluating the parole suitability of a particular inmate. (See, Pen.
23 Code § 3041.7; § 3046(c).)

24
25 The record adequately refutes petitioner's contention that the Board did not
26 recognize his remorse or consider the bearing his age might have on his suitability for
27
28

1 parole. During the hearing, petitioner expressed remorse for his crime. The Board
2 commended petitioner for being very frank during the hearing and recognized petitioner
3 for his favorable institutional record consisting of extensive programming over 16 years
4 of imprisonment, supportive evaluations and psychological assessment, and viable
5 parole plans. Despite these positive factors, the Board concluded that such factors did
6 not outweigh those circumstances establishing unsuitability for release on parole. The
7 record reflects proper consideration of petitioner's eligibility for parole and a proper
8 evidentiary foundation for the Board's decision. No abuse of discretion is established.
9
10

11 In reviewing a parole suitability determination made by the Board of Parole
12 Hearings, a court views the record in the light most favorable to that determination.
13 (See, *In re Morrall* (2002) 102 Cal.App.4th 280, 301.)

14 Courts may review the factual basis of a decision of the Board denying parole in
15 order to ensure that the decision complies with due process of law. However, courts
16 may only inquire whether some evidence in the record before the Board supports the
17 decision to deny parole, based upon the factors specified by statute and regulation. (*In*
18 *re Rosenkrantz* (2002) 29 Cal.4th 616, 658.)

19 The precise manner in which the specified factors relevant to parole suitability
20 are considered and balanced lies within the discretion of the Board of Parole Hearings,
21 but the decision must reflect an individualized consideration of the specified criteria and
22 cannot be arbitrary or capricious. It is irrelevant that a court might determine that the
23 evidence in the record tending to establish suitability for parole far outweighs evidence
24 demonstrating unsuitability for parole. As long as the decision reflects due
25 consideration of the specified factors as applied to the individual prisoner in accordance
26
27
28

1 with applicable legal standards, the court's review is limited to ascertaining whether
2 there is some evidence in the record that supports the decision. (*In re Rosenkrantz*,
3 *supra*, 29 Cal.4th at 677.)

4
5 IV.

6 Petitioner next argues that there is no reliable nexus between the factors cited by
7 the Board and petitioner's current risk assessment as reflected, for example, in his
8 institutional record and psychological assessment.

9 Petitioner's contention is without merit. Though petitioner committed the offense
10 over seventeen years ago, the temporal gap between the offense and the question of
11 parole suitability is bridged by petitioner's institutional record of misconduct. Most of the
12 instances of misconduct for which petitioner has been disciplined over the years reflect
13 a potential problem with authority that bears an unsettling resemblance to the argument
14 that ultimately was a factor in petitioner's attempted premeditated murder of the victim.
15 Under these circumstances, it cannot be said that the Board's decision was arbitrary
16 and capricious.

17 "The Board has very broad discretion to identify and weigh the factors relevant to
18 predicting by subjective analysis whether the inmate will be able to live in society
19 without committing additional antisocial acts." (*In re Fuentes* (2005) 135 Cal.App.4th
20 152, 160.)

21
22 V.

23 Equally without merit is petitioner's contention that he is entitled to parole release
24 since he does not stand convicted of murder and has completed the minimum term of
25 imprisonment prescribed for his offense. An indeterminate sentence is in legal effect a

1 sentence for the maximum term of life (*People v. Dyer* (1969) 269 Cal.App.2d 209,
2 214.) unless an inmate is found suitable for parole at an earlier point in time. The Board
3 of Parole Hearings, "exercising its traditional broad discretion, may protect public safety
4 *in each discrete case* by considering the dangerous implications of a life-maximum
5 prisoner's crime individually." The Board is not required to engage in comparative
6 analysis before concluding that the particular facts of the offense make it unsafe, at that
7 time, to fix a date for the prisoner's release. (*In re Dannenberg* (2005) 34 Cal.4th 1061,
8 1071.)

10 VI.
11

12 No prima facie case for relief is established. An order to show cause will issue
13 only if petitioner has established a prima facie case for relief on habeas corpus.

14 (*People v. Romero* (1994) 8 Cal.4th 728, 737; *In re Clark* (1993) 5 Cal.4th 750, 769, fn.
15 9.)

16 The petition for writ of habeas corpus is DENIED.
17

18
19
20 Dated: 3/22/07

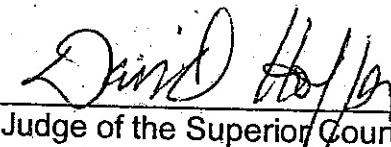

21 Judge of the Superior Court
22

EXHIBIT “J”

1 3. Did you have any of the following?

2 Arraignment: Yes No _____

3 Preliminary Hearing: Yes No _____

4 Motion to Suppress: Yes _____ No

5 4. How did you plead?

6 Guilty _____ Not Guilty Nolo Contendere _____

7 Any other plea (specify) No.

8 5. If you went to trial, what kind of trial did you have?

9 Jury Judge alone _____ Judge alone on a transcript _____

10 6. Did you testify at your trial? Yes _____ No _____

11 7. Did you have an attorney at the following proceedings:

12 (a) Arraignment Yes _____ No _____

13 (b) Preliminary hearing Yes _____ No _____

14 (c) Time of plea Yes _____ No _____

15 (d) Trial Yes _____ No _____

16 (e) Sentencing Yes _____ No _____

17 (f) Appeal Yes _____ No _____

18 (g) Other post-conviction proceeding Yes _____ No _____

19 8. Did you appeal your conviction? Yes No _____

20 (a) If you did, to what court(s) did you appeal?

21 Court of Appeal Yes No _____

22 Year: Unknown Result: AFFIRMED

23 Supreme Court of California Yes No _____

24 Year: Unknown Result: Unknown

25 Any other court Yes _____ No

26 Year: _____ Result: _____

27 (b) If you appealed, were the grounds the same as those that you are raising in this

EXHIBIT "K"

SEPTEMBER 18, 2007

TO: CALIFORNIA SUPREME COURT
350 MCALLISTER STREET
SAN FRANCISCO, CA. 94102-7303
ATTN: CLERK OF THE COURT

From: Jody D. Patterson, E-886049
P.O. Box 689, G-252-L
Soledad, CA. 93960-0689

RE: PETITION FOR REVIEW - NO. S153530 - FILED JUNE 18, 2007.

To whom it may concern - CLERK OF THE COURT;
ON JUNE 18, 2007 I FILED A PETITION FOR REVIEW
WITH THIS COURT. AS OF THIS DATE I HAVE NOT
RECEIVED A RESPONSE NOR AN EXTENTION OF TIME.
I AM CONCERNED THAT SAID RESPONSE WAS LOST IN
THE MAIL OR NOT FORWARDED TO ME BY CORRECTIONS
MAIL ROOM STAFF.

PLEASE ADVISE ME IF THIS MAY BE THE CASE.

THANK YOU.

SINCERELY,

Jody Patterson
Jody D. Patterson

RECEIVED
SEP 12 2007
CLERK SUPREME COURT

Case Number: S153530

Current Status: closed

Case Title: PATTERSON (JODY DION) ON H.C.

Start Date: 06/18/2007

Case Category: Review - Habeas (criminal)

Court of Appeals Case Information

Lead CA Case

G038678

CA Summary Judgement

Disposed:06/07/2007

Lower Court Case Information

M11219

Orange County Superior Court - Main

Hoffer (David A.)

Party Information

Attorneys

DEPARTMENT OF CORRECTIONS &
REHABILITATION

ATTORNEY GENERAL - SAN DIEGO OFFICE

Non-Title Respondent

Lead Attorney
P.O. Box 85266
San Diego, CA 92186-5266

[None]

JODY DION PATTERSON

Petitioner
P.O. Box 689
Soledad, CA 93960-0689

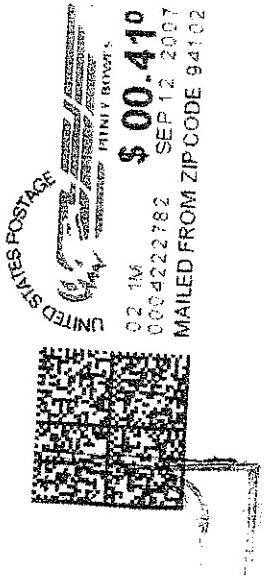
Docket Events

Date **Event**

- 06/18/2007 Petition for review filed
Petitioner, Jody Dion Patterson, in pro se.
06/18/2007 Record requested
06/20/2007 Received Court of Appeal record
file jacket/briefs
08/08/2007 Petition for review denied

RECEIVED
a-17-07

SUPREME COURT OF CALIF.
OFFICE OF THE CLERK
350 McAllister St., Rm 1295
San Francisco, CA 94102-4797



Jody D. Patterson, E-88644
P.o. Box 689, G-252 L
Sole dad, CA 93960-0689

Recycled
Q-17-01

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PROOF OF SERVICE BY MAIL

BY PERSON IN STATE CUSTODY

(Fed. R. Civ. P. 5; 28 U.S.C. § 1746)

I, Jody Dion Patterson (#E-88649), declare:

I am over 18 years of age and a party to this action. I am a resident of Correctional Training Facility-Central

in the county of Monterrey Prison,

State of California. My prison address is: P.O. Box 689, GW-252L,

Soledad, Calif. 93960-0689

On _____
(DATE)

I served the attached: Petition For Writ Of Habeas Corpus, With Exhibits Marked,
"A" Through "K".

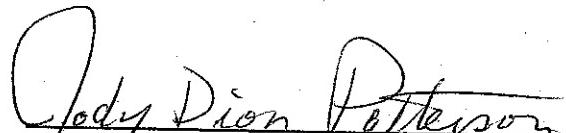
(DESCRIBE DOCUMENT)

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope, with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named correctional institution in which I am presently confined. The envelope was addressed as follows:

California Attorney General's Office
110 West A Street, Suite 1100
P.O. Box 85266
San Diego, CA. 92186-5266

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 10-25-07
(DATE)


Jody Dion Patterson
(DECLARANT'S SIGNATURE)

Jody Dion Patterson E-88649
(In Pro Per)